

REMARKS

Claims 1-57 are pending and at issue in the application with claims 1, 22 and 40 being the independent claims. Reconsideration and withdrawal of the rejections in view of the remarks below is respectfully requested.

Submitted herewith is a Terminal Disclaimer pursuant to 37 CFR 1.321(c) as executed by Gregory E. Stanton (Reg. No. 45,127), the attorney of record in the present application. In view of the Terminal Disclaimer submitted herewith, it is respectfully submitted that the rejection of claims 157 as unpatentable over U.S. Patent No. 6,928,328 under the judicially created doctrine of obviousness-type double patenting has been overcome and should be withdrawn.

The filing of this terminal disclaimer should not be construed as an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991); *See also* MPEP 804.02(II).

Accordingly, the applicants respectfully submit that all pending claims are patentable over the art of record and should be allowed. In the light of the foregoing, prompt issuance of a notice of allowance is respectfully solicited. Should the examiner have any questions, the examiner is respectfully invited to telephone the undersigned.

Respectfully submitted,

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